

IN THE UNITED STATES DISTRICT COURT
FOR
THE THIRD CIRCUIT

Rahman R. Fulton, :
(Petitioner) : Civil Action No. 18-16526 (SRC) 36
v : Crim. No. 13-CR-261 (SRC)

v

:

United States of America

PETITIONER'S MOTION FOR A "STATUS UPDATE"
CONCERNING THE COURT'S PENDING DECISION
ON PETITIONER'S 2255 HABEAS CORPUS FILING;
PURSUANT TO FRAP RULE 1: SCOPE AND PURPOSE

NOW before the Court, Petitioner Rahman Fulton's pro se Motion to Compel the Court to GRANT a written ruling on his case for Relief in his pending Habeas Corpus §2255 Petition before this Court. This Motion is being filed due to it being now going on (120 days) past the Court's final docket filing (#8) dated 7/2/19; and most recent Motion to Compel the Court to Proceed in its Ruling dated filed 10/4/2019 (Dkt #104). Petitioner has a legal right pursuant to FRAP Rule 1 "Scope and Purpose", guaranteed to a (secure) just, speedy and inexpensive determination pursuant to the statute; and in support thereof Petitioner states the following:

II. STATEMENT OF FACTS

Fed.R. of Procd. states that under Rule 1: "Scope and Purpose", clearly states the following;

The Rules govern the Procedure in all civil action and proceedings in the United States District Court, except as stated in Rule 81. They should be construed, administered and employed by the Court and the parties to "secure the just, speedy and inexpensive determination of every action and proceeding." (History:)(Amended April 29, 2015)(eff. Date Dec. 1, 2015).

III. SPECIFIC RELIEF SOUGHT

Petitioner's §2255 Motion deals with both his conviction as well as; incorrect charge of an element pursuant to 924(c).

Petitioner files this "Rule 1 Motion"; due to extreme (compelling) and extraordinary reasons, such as the fact that Petitioner is more than (2) years beyond what he should have been sentenced to, once the Court applied the recent Supreme Court decision in (Davis) thus correcting Petitioner's guideline range downward to time served.

Petitioner in addition to filing his Habeas Corpus §2255 Application/Memorandum Brief and Reply Brief; he has also filed a motion for immediate (evidentiary) hearing under FRAP R. 8.1; that has not been decided on by the Court at the time of this Motion being filed.

Petitioner's case (at least concerning the 924(c) matter is not at all complicated, and such Higher and Lower Court decisions has made it even easier/clearer in favor of Petitioner. Petitioner was charged and sentenced under the 924(c) element clause; when in fact Petitioner 924(c) charge should have fallen under the Residual Clause under 924(c)(3)(B); now considered by the Supreme Court to be unconstitutionally vague and thus cannot stand. Period!

Petitioner has brought this extremely important case to light in his final reply brief; and yet is compelled to file this Motion due to substantial developments within his case and sentence. As of this filing, Petitioner has served (82) months of his (141) months sentence; and the removal of the 924(c) enhancement would significantly reduce Petitioner's Sentencing Guidelines downward to "Time Served". What's more; upon the Court removing (84) months of Petitioner's sentence, effectively changing his guidelines range; (Fulton) Petitioner now qualifies for such relief because, at his current (82) months of incarceration would mean that Petitioner (has) and is now currently outliving what should have been a correct sentence of only (57) months. And thus needs

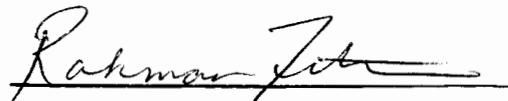
to be corrected; and thus has been in jail (24) months past the amount of time the Court should have given Petitioner.

IV. CONCLUSION

WHEREFORE, Petitioner Rahman R. Fulton, pro se, hereby respectfully requests this Honorable Court to "GRANT" this Motion for a Status Update and/or enter a Ruling in this Instant Matter concerning this specific grounds within his Reply Brief of his 2255 Habeas Corpus filing due to the Recent Supreme Court ruling in US v. Davis/No.18431; under 18 USC 924(c)(1)(A), (3)(B); finding the Residual Clause to be unconstitutionally vague and cannot stand; and such Order an Immediate Release from Custody; also, the Court to address the other grounds herein Petitioner's complete filing of his 2255 habeas corpus filing, pursuant to FRAP Rule 1. Petitioner, at the time of filing this Motion before the Court when given an appropriate sentence of (57) months (If the Court decides not to overturn Petitioner's conviction); is now been illegally incarcerated 82 plus months and counting; and for such other and further relief deemed proper and necessary in the Interest of Justice.

Dated:

Respectfully Submitted,



Rahman R. Fulton, pro se
Fed. No. 64940-050
LSCI Allenwood LOW
PO BOX 1000
White Deer PA 17887

AFFIDAVIT

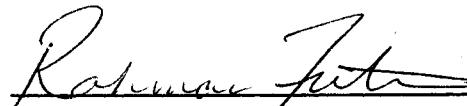
I Hereby Certify that the foregoing facts are true and correct to the best of my knowledge and belief under penalty of perjury as per 28 USC Section 1746.


Rahman Fulton, pro se

CERTIFICATE OF SERVICE

I Hereby Certify that a copy of the foregoing Petition/Motion was mailed on this 28th day of Oct, 2019, by First Class Mail, postage prepaid to:

AUSUA
Office of the US Attorney
Daniel V. Shapiro
970 Broad Street
Newark NJ 07102


Rahman Fulton, pro se

Other Documents

2:13-cr-00261-SRC USA v.
FULTON CASE CLOSED on
12/22/2014

CLOSED

U.S. District Court

District of New Jersey [LIVE]

Notice of Electronic Filing

The following transaction was entered on 10/7/2019 at 1:52 PM EDT and filed on 10/4/2019

Case Name: USA v. FULTON
Case Number: 2:13-cr-00261-SRC
Filer:
Document Number: 104

Docket Text:

Letter from RAHMAN R. FULTON re. Motion to Compel the Court to proceed in its ruling with Petitioner's 2255 filing (mrd,)

2:13-cr-00261-SRC-1 Notice has been electronically mailed to:

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2:13-cr-00261-SRC-1 Notice has been sent by regular U.S. Mail:

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[STAMP dcecfStamp_ID=1046708974 [Date=10/7/2019] [FileNumber=13043619-0] [a09ec5c6a5a97a56f9d845fa8c56a4d50591e8e577479edd2fe8d705cd9b715ed115fa505b7a10f4c299f9be3196bfc3b3cc81160d0058ebfc716cc1949292f5]]

ATTACHMENT #1



CERTIFIED MAIL



7019 0160 0000 5801 4545

INMATE NAME/NUMBER: FULTON, R./64940-050
FEDERAL CORRECTIONAL COMPLEX-ALLENWOOD LOI
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64940-050
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Newark, NJ 07102-4015
United States

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